

ARIZONA CHILD SUPPORT GUIDELINES
ADOPTED BY THE ARIZONA SUPREME COURT
FOR ACTIONS FILED AFTER EFFECTIVE JANUARY 1, 2005

BACKGROUND: The Arizona Child Support Guidelines follow the Income Shares Model. The model was developed by the Child Support Guidelines Project of the National Center for State Courts. The total child support amount approximates the amount that would have been spent on the children if the parents and children were living together. Each parent contributes his/her proportionate share of the total child support amount.

Information regarding development of the guidelines, including economic data and assumptions upon which the Schedule of Basic Support Obligations is based, is contained in the ~~June 28, 1999~~, FEBRUARY 6, 2003 report of Policy Studies, Inc., entitled ~~REVIEW OF THE ARIZONA CHILD SUPPORT SCHEDULE~~ ECONOMIC BASIS FOR UPDATED CHILD SUPPORT SCHEDULE, STATE OF ARIZONA.

1. Purposes

- A. To establish a standard of support for children consistent with the reasonable needs of children and the ability of parents to pay.
- B. To make child support orders consistent for persons in similar circumstances.
- C. To give parents and courts guidance in establishing child support orders and to promote settlements.
- D. To comply with state law (Arizona Revised Statutes, Section 25-320) and federal law (42 United States Code, Section 651 et seq., 45 Code of Federal Regulations, Section 302.56) and any amendments thereto.

2. Premises

- A. These guidelines apply to all natural children, whether born in or out of wedlock, and to all adopted children.
- B. The child support obligation has priority over all other financial obligations; the existence of non-support-related financial obligations is generally not a reason for deviating from the guidelines.
- C. The fact that a custodial parent receives child support does not mean that he or she may not also be entitled to spousal maintenance.

If the court is establishing both child support and spousal maintenance, the court shall determine the appropriate amount of spousal maintenance first.

The receipt or payment of spousal maintenance shall be treated in accordance with sections ~~4.a and~~ 5.A AND 6.A. The addition to or adjustment from gross income under these sections shall apply for the duration of the spousal maintenance award.

D. A parent's legal duty is to support his or her natural or adopted children. The "support" of other persons such as stepchildren or parents is deemed voluntary and is not a reason for an adjustment in the amount of child support determined under the guidelines.

~~e. Duration of support is governed by Arizona Revised Statutes, Sections 25-501 and 25-320, except as provided in Arizona Revised Statutes, Section 25-648.~~

E. IN APPROPRIATE CASES, A CUSTODIAL PARENT MAY BE ORDERED TO PAY CHILD SUPPORT.

F. Monthly figures are used to calculate the child support obligation. Any adjustments to the child support amount shall be annualized so that each month's child support obligation is increased or decreased in an equal amount, instead of the obligation for particular months being abated, increased or decreased.

EXAMPLE: At a child support hearing in a paternity action a custodial parent requests an adjustment for childcare costs (Section ~~8-B.1A~~ 9.B.1.). The parent incurs childcare costs of \$150 per month but only for nine months of the year. The adjustment for childcare costs must be annualized as follows: Multiply the \$150 monthly cost times the nine months that the cost is actually paid each year, for an annual total of \$1,350. Divide this total by 12 months to arrive at an annualized monthly adjustment of \$112.50 that may be added to the Basic Child Support Obligation when determining the child support order.

G. When determining the Basic Child Support Obligation under Section 7 8, the amount derived from the Schedule of Basic Child Support Obligations shall not be less than the amount indicated on the Schedule:

1. For six children where there are more than six children.
2. For the Combined Adjusted Gross Income of \$20,000 where the actual Combined Adjusted Gross Income of the parents is greater than \$20,000.

3. **Presumption**

In any action to establish or modify child custody, and in any action to establish child support or past support or to modify child support, whether temporary or permanent, local or interstate, the amount resulting from application of these guidelines shall be the amount of child support ordered. These include, without limitation, all actions or proceedings brought under Title 25 of the Arizona Revised Statutes (including maternity

and paternity) and juvenile court actions in which a child support order is established or modified. However, if application of the guidelines would be inappropriate or unjust in a particular case, the court shall deviate from the guidelines in accordance with Section 48 20.

4. DURATION OF CHILD SUPPORT

Duration of child support is governed by Arizona Revised Statutes, Sections 25-320 and 25-501, except as provided in Arizona Revised Statutes, Section 25-648.

UPON ENTRY OF AN INITIAL OR MODIFIED CHILD SUPPORT ORDER, THE COURT SHALL, OR IN ANY SUBSEQUENT ACTION RELATING TO THE CHILD SUPPORT ORDER, THE COURT MAY, ESTABLISH A PRESUMPTIVE DATE FOR THE TERMINATION OF THE CURRENT CHILD SUPPORT OBLIGATION. THE PRESUMPTIVE TERMINATION DATE SHALL BE THE LAST DAY OF THE MONTH OF THE EIGHTEENTH BIRTHDAY OF THE YOUNGEST CHILD INCLUDED IN THE ORDER UNLESS THE COURT FINDS THAT IT IS PROJECTED THAT THE YOUNGEST CHILD WILL NOT COMPLETE HIGH SCHOOL BY AGE 18. IN THAT EVENT, THE PRESUMPTIVE TERMINATION DATE SHALL BE THE LAST DAY OF THE MONTH OF THE ANTICIPATED GRADUATION DATE OR AGE 19, WHICHEVER OCCURS FIRST. THE ADMINISTRATIVE INCOME WITHHOLDING ORDER ISSUED BY THE DEPARTMENT OR ITS AGENT IN A TITLE IV-D CASE AND AN ORDER OF ASSIGNMENT ISSUED BY THE COURT SHALL INCLUDE THE PRESUMPTIVE TERMINATION DATE. THE PRESUMPTIVE DATE MAY BE MODIFIED UPON CHANGED CIRCUMSTANCES.

AN EMPLOYER OR OTHER PAYOR OF FUNDS HONORING AN ORDER OF ASSIGNMENT OR AN ADMINISTRATIVE INCOME WITHHOLDING ORDER THAT INCLUDES THE PRESUMPTIVE TERMINATION DATE AND IS FOR CURRENT CHILD SUPPORT ONLY, SHALL DISCONTINUE WITHHOLDING MONIES AFTER THE LAST PAY PERIOD OF THE MONTH OF THE PRESUMPTIVE TERMINATION DATE. IF THE ORDER OF ASSIGNMENT OR ADMINISTRATIVE INCOME WITHHOLDING ORDER INCLUDES CURRENT CHILD SUPPORT AND ARREARAGE PAYMENT, THE EMPLOYER OR OTHER PAYOR OF FUNDS SHALL CONTINUE WITHHOLDING THE ENTIRE AMOUNT LISTED ON THE ORDER OF ASSIGNMENT OR ADMINISTRATIVE INCOME WITHHOLDING ORDER UNTIL FURTHER ORDER.

FOR PURPOSES OF DETERMINING THE PRESUMPTIVE TERMINATION DATE, IT IS FURTHER PRESUMED:

- A. THAT A CHILD NOT YET IN SCHOOL WILL ENTER FIRST GRADE IF THE CHILD REACHES AGE SIX ON OR BEFORE SEPTEMBER 1 OF THE YEAR IN WHICH THE CHILD REACHES AGE SIX; OTHERWISE, IT IS

PRESUMED THAT THE CHILD WILL ENTER FIRST GRADE THE FOLLOWING YEAR; AND,

- B. THAT A CHILD WILL GRADUATE IN THE MONTH OF MAY AFTER COMPLETING THE 12TH GRADE.

4. 5. Determination of the Gross Income of the Parents

NOTE: Terms such as "Gross Income" and "Adjusted Gross Income" as used in these guidelines do not have the same meaning as when they are used for tax purposes.

- A. Gross income includes income from any source, and may include, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits (subject to Section 25 26), worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance. Cash value shall be assigned to in-kind or other non-cash benefits. Seasonal or fluctuating income shall be annualized. Income from any source which is not continuing or recurring in nature need not necessarily be deemed gross income for child support purposes. ~~It is generally not expected that a parent will earn income greater than what would be earned from full time employment.~~ GENERALLY, THE COURT SHOULD NOT ATTRIBUTE INCOME GREATER THAN WHAT WOULD HAVE BEEN EARNED FROM FULL-TIME EMPLOYMENT. EACH PARENT SHOULD HAVE THE CHOICE OF WORKING ADDITIONAL HOURS THROUGH OVERTIME OR AT A SECOND JOB WITHOUT INCREASING THE CHILD SUPPORT AWARD. THE COURT MAY, HOWEVER, CONSIDER INCOME ACTUALLY EARNED THAT IS GREATER THAN WOULD HAVE BEEN EARNED BY FULL-TIME EMPLOYMENT IF THAT INCOME WAS HISTORICALLY EARNED FROM A REGULAR SCHEDULE AND IS ANTICIPATED TO CONTINUE INTO THE FUTURE.

THE COURT SHOULD GENERALLY NOT ATTRIBUTE ADDITIONAL INCOME TO A PARENT IF THAT WOULD REQUIRE AN EXTRAORDINARY WORK REGIMEN. DETERMINATION OF WHAT CONSTITUTES A REASONABLE WORK REGIMEN DEPENDS UPON ALL RELEVANT CIRCUMSTANCES INCLUDING THE CHOICE OF JOBS AVAILABLE WITHIN A PARTICULAR OCCUPATION, WORKING HOURS AND WORKING CONDITIONS.

- B. Gross income does not include sums received as child support or benefits received from means-tested public assistance programs including, but not limited to, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps and General Assistance.

- C. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income means gross receipts minus ordinary and necessary expenses required to produce income. Ordinary and necessary expenses do not include amounts determined by the court to be inappropriate for determining gross income for purposes of child support. Ordinary and necessary expenses include one-half of the self-employment tax actually paid.
- D. Expense reimbursements or benefits received by a parent in the course of employment or self-employment or operation of a business shall be counted as income if they are significant and reduce personal living expenses.
- E. If a parent is unemployed or working below full earning capacity, the court may consider the reasons. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a parent up to his or her earning capacity. If the reduction in income is voluntary but reasonable, the court shall balance that parent's decision and benefits therefrom against the impact the reduction in that parent's share of child support has on the children's best interest. In accordance with Arizona Revised Statutes Section 25-320, income of at least minimum wage shall be attributed to a parent ordered to pay child support. If income is attributed to the parent receiving child support, appropriate childcare expenses may also be attributed.

The court may decline to attribute income to either parent. Examples of cases in which it may be inappropriate to attribute income include, but are not limited to, the following circumstances:

1. A parent is physically or mentally disabled,
 2. A parent is engaged in reasonable career or occupational training to establish basic skills or reasonably calculated to enhance earning capacity,
 3. Unusual emotional or physical needs of a natural or adopted child require that parent's presence in the home, or
 4. The parent is a current recipient of Temporary Assistance to Needy Families.
- F. Only income of persons having a legal duty of support shall be treated as income under the guidelines. For example, income of a parent's new spouse is not treated as income of that parent.
 - G. The court shall not take into account the impact of the disposition of marital property except as provided in Arizona Revised Statutes Section 25-320.A.6. ("...excessive or abnormal expenditures, destruction, concealment or fraudulent

disposition of community, joint tenancy and other property held in common.") or to the extent that such property generates income to a parent.

- H. The Schedule of Basic Child Support Obligations is based on net income and converted to gross income for ease of application. The impact of income taxes has been considered in the Schedule (Federal Tax INCLUDING EARNED INCOME TAX CREDIT, Arizona State Tax, AND FICA, ~~and Earned Income Tax Credit~~).

5 6. Adjustments to Gross Income

- ~~A. The amount of court ordered spousal maintenance actually paid and the amount of court ordered child support for children of other relationships actually paid by a parent shall be deducted from the gross income of the paying parent. Court ordered arrearage payments on child support for children of other relationships or spousal maintenance shall not be included as an adjustment to gross income. "Children of other relationships" means natural or adopted children who are not the subject of this particular child support determination.~~
- ~~B. A parent shall receive a credit for support of children of other relationships covered by a court order for whom they are the custodial parent. The adjustment will be made to gross income and the amount of any adjustment will be determined by a simplified application of the guidelines to determine the basic amount of support that would be ordered for the children in question.~~
- ~~C. Support of natural or adopted children not covered by a court order may be considered as an adjustment factor. Any adjustment will be made to gross income and the amount of any adjustment will be determined by a simplified application of the guidelines to determine the basic amount of support that would be ordered for the other children in question.~~

FOR PURPOSES OF THIS SECTION, "CHILDREN OF OTHER RELATIONSHIPS" MEANS NATURAL OR ADOPTED CHILDREN WHO ARE NOT THE SUBJECT OF THIS PARTICULAR CHILD SUPPORT DETERMINATION.

ADJUSTMENTS TO GROSS INCOME FOR OTHER SUPPORT OBLIGATIONS ARE MADE AS FOLLOWS:

- A. THE COURT-ORDERED AMOUNT OF SPOUSAL MAINTENANCE RESULTING FROM THIS OR ANY OTHER MARRIAGE, IF ACTUALLY BEING PAID, SHALL BE DEDUCTED FROM THE GROSS INCOME OF THE PARENT PAYING SPOUSAL MAINTENANCE. COURT-ORDERED ARREARAGE PAYMENTS SHALL NOT BE INCLUDED AS AN ADJUSTMENT TO GROSS INCOME.
- B. THE COURT-ORDERED AMOUNT OF CHILD SUPPORT FOR CHILDREN OF OTHER RELATIONSHIPS, IF ACTUALLY BEING PAID, SHALL BE

DEDUCTED FROM THE GROSS INCOME OF THE PARENT PAYING THAT CHILD SUPPORT. COURT-ORDERED ARREARAGE PAYMENTS SHALL NOT BE INCLUDED AS AN ADJUSTMENT TO GROSS INCOME.

- C. AN AMOUNT SHALL BE DEDUCTED FROM THE GROSS INCOME OF A PARENT FOR CHILDREN OF OTHER RELATIONSHIPS COVERED BY A COURT ORDER FOR WHOM THEY ARE THE CUSTODIAL PARENT. THE AMOUNT OF THE ADJUSTMENT SHALL BE DETERMINED BY A SIMPLIFIED APPLICATION OF THE GUIDELINES (DEFINED IN EXAMPLE BELOW).
- D. AN AMOUNT MAY BE DEDUCTED FROM THE GROSS INCOME OF A PARENT FOR SUPPORT OF NATURAL OR ADOPTED CHILDREN OF OTHER RELATIONSHIPS NOT COVERED BY A COURT ORDER. THE AMOUNT OF ANY ADJUSTMENT SHALL NOT EXCEED THE AMOUNT ARRIVED AT BY A SIMPLIFIED APPLICATION OF THE GUIDELINES (DEFINED IN EXAMPLE BELOW).

EXAMPLE: A parent having gross monthly income of \$2,000 supports an NATURAL OR adopted minor child WHO IS not THE subject of the child support case before the court and for whom no child support order exists. TO USE THE SIMPLIFIED APPLICATION OF THE GUIDELINES, locate \$2,000 in the Combined Adjusted Gross Income column of the Schedule. Select the support figure AMOUNT in the column for one child, ~~\$383~~ 420. The parent's income may be reduced by UP TO ~~\$383~~ 420, resulting in an Adjusted Gross Income of ~~\$1,617~~ 1,580.

6 7. Determining the Adjusted Gross Income of the Parents

Adjusted Gross Income is gross income minus the adjustments provided in Section 5 6 of these guidelines. The Adjusted Gross Income for each parent shall be established. These amounts shall be added together. The sum is the Combined Adjusted Gross Income.

7 8. Determining the Basic Child Support Obligation

Locate the income closest to the parents' Combined Adjusted Income figure on the Schedule of Basic Child Support Obligations and select the column for the number of children involved. This number is the Basic Child Support Obligation.

If there are more than six children, the amount derived from the schedule of basic support obligations for six children shall be the presumptive amount. The party seeking a greater sum shall bear the burden of proof that the needs of the children require a greater sum.

If the combined adjusted gross income of the parties is greater than \$20,000 per month, the amount set forth for combined adjusted gross income of \$20,000 shall be the presumptive Basic Child Support Obligation. The party seeking a sum greater than this

presumptive amount shall bear the burden of proof to establish that a higher amount is in the best interests of the children, taking into account such factors as the standard of living the children would have enjoyed if the parents and children were living together, the needs of the children in excess of the presumptive amount, consideration of any significant disparity in the respective percentages of gross income for each party and any other factors which, on a case by case basis, demonstrate that the increased amount is appropriate.

8 9. Determining the Total Child Support Obligation

To determine the Total Child Support Obligation, the court:

- A. Shall add to the Basic Child Support Obligation the cost of the children's medical ~~and/or dental~~, DENTAL AND/OR VISION insurance coverage, IF ANY (THIS PROVISION DOES NOT IMPLY ANY OBLIGATION OF EITHER PARENT TO PROVIDE DENTAL OR VISION INSURANCE). In determining the amount to be added, only the amount of the insurance cost attributable to the children subject of the child support order shall be included. If coverage is applicable to other persons, the total cost shall be prorated by the number of persons covered. The court may decline to credit a parent for medical, ~~and/or~~ dental AND/OR VISION insurance coverage obtained for a THE children if the coverage is not valid in the geographic region where the children reside.

EXAMPLE: Through an employment-related insurance plan, a parent provides medical insurance that covers the parent, one child subject of the child support case and two other children. Under the plan, the cost of an employee's individual insurance coverage would be \$50. This parent instead pays a total of \$170 for the "family option" that provides coverage for the employee and any number of dependents. Calculate the adjustment for medical insurance as follows: Subtract the \$50 cost of individual coverage from the \$170 paid for the "family option" to find the cost of dependent coverage. The \$120 remainder then is divided by three--the number of covered dependents. The resulting \$40 is added to the Basic Child Support Obligation as the cost of medical insurance coverage for the one child.

An order for child support shall assign responsibility for providing medical insurance for the children who are the subject of the child support order. If medical insurance of comparable benefits and cost is available to both parents, the court should assign the responsibility to the parent having primary physical custody.

The court shall also specify the percentage that each parent shall pay for any medical, DENTAL AND/OR VISION costs of the children which are not covered by insurance. For purposes of this paragraph, non-covered "medical" means medically necessary medical, ~~and/or~~ dental AND/OR VISION care as defined by Internal Revenue Service Publication 502.

EXCEPT FOR GOOD CAUSE SHOWN, ANY REQUEST FOR PAYMENT OR REIMBURSEMENT OF UNINSURED MEDICAL, DENTAL AND/OR VISION COSTS MUST BE PROVIDED TO THE OTHER PARENT WITHIN 180 DAYS AFTER THE DATE THE SERVICES OCCUR. THE PARENT RESPONSIBLE FOR PAYMENT OR REIMBURSEMENT MUST PAY HIS OR HER SHARE, AS ORDERED BY THE COURT, OR MAKE ACCEPTABLE PAYMENT ARRANGEMENTS WITH THE PROVIDER OR PERSON ENTITLED TO REIMBURSEMENT WITHIN 45 DAYS AFTER RECEIPT OF THE REQUEST.

Both parents should use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

B. May add to the Basic Child Support Obligation amounts for any of the following:

1A. Childcare Costs

Childcare expenses that would be appropriate to the parents' financial abilities ~~and to the lifestyle of the child(ren) if the parents and child(ren) were living together.~~

Expenses for childcare shall be annualized in accordance with Section 2.F.

A custodial parent paying for childcare may be eligible for a credit from federal tax liability for CHILDCARE COSTS FOR dependent children. The custodial parent is the parent who has PHYSICAL custody of the children for the greater part of the year. IN AN EQUAL PHYSICAL CUSTODY SITUATION, NEITHER PARENT SHALL BE ENTITLED TO THE CREDIT FOR PURPOSES OF CALCULATING CHILD SUPPORT. Before adding childcare costs to the Basic Child Support Obligation, the court may adjust this cost in order to apportion the benefit that the dependent tax credit will have to the parent incurring the childcare costs.

At lower income levels the head of household does not incur sufficient tax liability to benefit from the federal CHILDCARE tax credit. No adjustment should be made where the income of the custodial parent is less than indicated on the following chart:

MONTHLY GROSS INCOME OF THE CUSTODIAL PARENT	
ONE CHILD	\$1,350 2,100
TWO CHILDREN	\$1,900 2,600
THREE CHILDREN	\$2,450 2,700
FOUR CHILDREN	\$3,000 2,800
FIVE CHILDREN	\$3,550 3,050
SIX CHILDREN	\$4,100 3,300

~~An adjustment of twenty-five percent may be deducted from total annual child care costs, up to maximum annual costs of \$2,400 for one child or \$4,800 for two or more children. If the annual costs for child care exceed the maximum limits, \$50 or \$100 per month, respectively, may be subtracted from the annualized monthly child care cost. Otherwise, annual costs are multiplied by .0625 to arrive at the adjusted monthly child care costs.~~ IF THE CUSTODIAL PARENT'S INCOME IS GREATER THAN INDICATED ON THE ABOVE CHART, THE COURT MAY ADJUST THIS COST FOR THE FEDERAL CHILDCARE TAX CREDIT IF THE CREDIT IS ACTUALLY CLAIMED OR WILL BE CLAIMED.

FOR ONE CHILD WITH MONTHLY CHILDCARE COSTS EXCEEDING \$200, DEDUCT \$50 FROM THE MONTHLY CHILDCARE AMOUNT. FOR TWO OR MORE CHILDREN WITH TOTAL MONTHLY CHILDCARE COSTS EXCEEDING \$400, DEDUCT \$100 FROM THE MONTHLY CHILDCARE AMOUNT. SEE EXAMPLE ONE.

FOR ONE CHILD WITH MONTHLY CHILDCARE COSTS OF \$200 OR LESS, DEDUCT 25% FROM THE MONTHLY CHILDCARE AMOUNT. FOR TWO OR MORE CHILDREN WITH TOTAL MONTHLY CHILDCARE COSTS OF \$400 OR LESS, DEDUCT 25% FROM THE MONTHLY CHILDCARE AMOUNT. SEE EXAMPLE TWO.

EXAMPLE ONE: For two children a parent pays monthly childcare costs of \$550 for nine months of the year. To adjust for the expected tax credit benefit, first determine whether the ~~annual~~ AVERAGE costs of childcare exceeds ~~the maximum allowed annual costs~~ \$400 PER MONTH. In this example, because the ~~annual~~ AVERAGE cost of ~~\$4,950~~ \$413 (\$550 multiplied by 9 months, DIVIDED BY 12 MONTHS) exceeds the ~~\$4,800~~ \$400 maximum for two or more children, \$100 per month may be subtracted from the ~~annualized~~ AVERAGE monthly cost. ~~To calculate the annualized cost, divide the annual cost by 12 months (\$412.50) and~~

~~subtract \$100 (\$312.50).~~ \$313 (\$413 - \$100) may be added to the Basic Child Support Obligation for adjusted childcare costs.

EXAMPLE TWO: A parent pays monthly childcare costs of \$175 for one child. ~~Multiply by 12 months to obtain the annual costs (\$2,100).~~ Because this amount is less than the ~~\$2,400~~ \$200 maximum for one child, multiply ~~\$2,100~~ \$175 by ~~.0625~~ 25% (\$175 MULTIPLIED BY 25% = \$44). ~~to obtain the amount (\$131.25) that~~ SUBTRACT THE ADJUSTMENT FROM THE MONTHLY AVERAGE (\$175 - \$44 = \$131). THE ADJUSTED AMOUNT OF \$131 may be added to the Basic Child Support Obligation.

Any adjustment for the payment of childcare costs with pre-tax dollars shall be calculated in a similar manner. A percentage adjustment other than twenty-five percent may be utilized if proven by the parent paying the childcare costs.

~~1B2.~~ Education Expenses

Any reasonable and necessary expenses for attending private or special schools or necessary expenses to meet particular educational needs of a child, when such expenses are incurred by agreement of both parents or ordered by the court.

~~1C3.~~ Extraordinary Child

These guidelines are designed to fit the needs of most children. The court may increase the Basic Child Support Obligation to provide for the special needs of gifted or handicapped children.

~~1D.~~ Costs Associated With Court-Ordered Supervision

~~Costs associated with court-ordered supervised parenting time or supervised exchanges, if not otherwise assigned by court order to one or both parties.~~

~~2 4.~~ Older Child Adjustment

The average expenditures for children age twelve or older exceed the average expenditures for all children by approximately ten percent. Therefore, the court may increase child support for a child who has reached the age of twelve years by an amount up to ten percent of the child support shown on the Schedule. If the court chooses to make an adjustment, the following method of calculation shall be used.

EXAMPLE: The Basic Child Support Obligation for one child, age 12, is \$300. As much as \$30 may be added TO THE BASIC CHILD SUPPORT OBLIGATION ~~by the court~~, for a total of \$330. If not all children subject to the order are age 12 or over, the increase will be prorated as follows: Assume the Basic Child Support Obligation for three children is \$300. If one of the three children is age 12 or over, assign 1/3 of the Basic Child Support Obligation to the older child (\$100). Up to 10% (\$10) of that portion of the Basic Child Support Obligation may be added as an older child adjustment, increasing the obligation to \$310. NOTE: This prorating method is limited to this section and should not be followed in Section 23 25.

910. Determining Each Parent's Proportionate Share of the Total Child Support Obligation

The Total Child Support Obligation shall be divided between the parents in proportion to their Adjusted Gross Incomes. The obligation of each parent is computed by multiplying each parent's share of the Combined Adjusted Gross Income by the Total Child Support Obligation.

EXAMPLE: Combined Adjusted Gross Income is \$1,000. The father's Adjusted Gross Income is \$600. Divide the father's Adjusted Gross Income by the Combined Adjusted Income. The result is the father's share of the Combined Adjusted Gross Income. (\$600 divided by \$1,000 = 60%) ~~So, the~~ The father's share is 60%; the mother's share is 40%.

4011. Adjustment for Costs Associated with ~~Visitation~~ PARENTING TIME

Because the Schedule of Basic Child Support Obligations is based on expenditures for children in intact households, there is no consideration for costs associated with ~~visitation~~ PARENTING TIME. When ~~visitation~~ PARENTING TIME is exercised by the noncustodial parent, a portion of the costs for children normally expended by the custodial parent shifts to the noncustodial parent. Accordingly, UNLESS IT IS APPARENT FROM THE CIRCUMSTANCES THAT THE NONCUSTODIAL PARENT WILL NOT INCUR COSTS FOR THE CHILDREN DURING PARENTING TIME, when proof establishes that ~~visitation~~ PARENTING TIME is or is expected to be exercised by the ~~parent paying child support~~ NONCUSTODIAL PARENT, an adjustment shall be made to that parent's proportionate share of the Total Child Support Obligation.

For purposes of calculating ~~visitation~~ PARENTING TIME days, only the time spent by a child with the noncustodial parent is considered. Time that the child is in school or childcare is not considered.

TO CALCULATE CHILD SUPPORT IN EQUAL CUSTODY CASES, SEE SECTION 12.

To adjust for the costs of ~~visitation~~ PARENTING TIME, first determine the total ANNUAL amount of ~~visitation~~ PARENTING TIME indicated in a court order or parenting plan or by the expectation or historical practice of the parents. Using the following definitions, add together each ~~period~~ BLOCK of ~~visitation~~ PARENTING TIME within twenty-four hours to arrive at the total number of ~~visitation~~ PARENTING TIME days per year.

- a. ~~"One day" means more than 12 continuous and consecutive hours or an overnight.~~
- b. ~~"One half day" means greater than 4 and up to and including 12 continuous and consecutive hours.~~
- c. ~~"One quarter day" means up to and including 4 continuous and consecutive hours.~~

CALCULATE THE NUMBER OF PARENTING TIME DAYS ARISING FROM ANY BLOCK OF TIME THE CHILD SPENDS WITH THE NONCUSTODIAL PARENT IN THE FOLLOWING MANNER:

- A. EACH BLOCK OF TIME BEGINS AND ENDS WHEN THE NONCUSTODIAL PARENT RECEIVES OR RETURNS THE CHILD FROM THE CUSTODIAL PARENT OR FROM A THIRD PARTY WITH WHOM THE CUSTODIAL PARENT LEFT THE CHILD. THIRD PARTY INCLUDES, FOR EXAMPLE, A SCHOOL OR CHILDCARE PROVIDER.
- B. COUNT ONE DAY OF PARENTING TIME FOR EACH 24 HOURS WITHIN ANY BLOCK OF TIME.
- C. TO THE EXTENT THERE IS A PERIOD OF LESS THAN 24 HOURS REMAINING IN THE BLOCK OF TIME, AFTER ALL 24-HOUR DAYS ARE COUNTED OR FOR ANY BLOCK OF TIME WHICH IS IN TOTAL LESS THAN 24 HOURS IN DURATION:
 - 1. A PERIOD OF 12 HOURS OR MORE COUNTS AS ONE DAY.
 - 2. A PERIOD OF 6 TO 11 HOURS COUNTS AS A HALF-DAY.
 - 3. A PERIOD OF 3 TO 5 HOURS COUNTS AS A QUARTER-DAY.
 - 4. PERIODS OF LESS THAN 3 HOURS MAY COUNT AS A QUARTER-DAY IF, DURING THOSE HOURS, THE NONCUSTODIAL PARENT PAYS FOR ROUTINE EXPENSES OF THE CHILD, SUCH AS MEALS.

EXAMPLES:

- 1. NONCUSTODIAL PARENT RECEIVES THE CHILD AT 9:00 PM ON THURSDAY EVENING AND BRINGS THE CHILD TO SCHOOL AT 8:00 AM ON MONDAY MORNING, FROM WHICH CUSTODIAL PARENT PICKS UP THE CHILD AT 3:00 PM ON MONDAY.

- A. 9:00 PM THURSDAY TO 9:00 PM SUNDAY IS THREE DAYS.
 - B. 9:00 PM SUNDAY TO 8:00 AM MONDAY IS 11 HOURS, WHICH EQUALS A HALF DAY.
 - C. TOTAL IS 3 ½ DAYS.
- 2. NONCUSTODIAL PARENT PICKS THE CHILD UP FROM SCHOOL AT 3:00 PM FRIDAY AND RETURNS THE CHILD TO SCHOOL AT 8:00 AM ON MONDAY.
 - A. 3:00 PM FRIDAY TO 3:00 PM SUNDAY IS TWO DAYS.
 - B. 3:00 PM SUNDAY TO 8:00 AM MONDAY IS 17 HOURS, WHICH EQUALS ONE DAY.
 - C. TOTAL IS 3 DAYS.
- 3. NONCUSTODIAL PARENT PICKS UP CHILD FROM SOCCER AT NOON ON SATURDAY, AND RETURNS THE CHILD TO CUSTODIAL PARENT AT 9:00 PM ON SUNDAY.
 - A. NOON SATURDAY TO NOON SUNDAY IS ONE DAY.
 - B. NOON SUNDAY TO 9:00 PM SUNDAY IS 9 HOURS, WHICH EQUALS ½ DAY.
 - C. TOTAL IS 1 ½ DAYS.

After determining the total number of ~~visitation~~ PARENTING TIME days, refer to "~~Visitation~~ PARENTING TIME Table A" BELOW. The left column of the table sets forth numbers of ~~visitation~~ PARENTING TIME days in increasingly higher ranges. Adjacent to each range is an adjustment percentage. The ~~visitation~~ PARENTING TIME adjustment is calculated as follows: locate the total number of ~~visitation~~ PARENTING TIME days per year in the left column of "~~visitation~~ PARENTING TIME Table A" and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 7 8 by the appropriate adjustment percentage. The number resulting from this multiplication then is subtracted from the proportionate share of the Total Child Support Obligation of the parent who exercises ~~visitation~~ PARENTING TIME.

VISITATION PARENTING TIME TABLE A	
Number of Visitation PARENTING TIME Days	Adjustment Percentage
0 - 3	0
4 - 20	.012
21 - 38	.031
39 - 57	.050
58 - 72	.085
73 - 87	.105
88 - 115	.161
116 - 129	.195
130 - 142	.253
143 - 152	.307
153 - 162	.362
163 - 172	.422
173 - 182	.486

EXAMPLE: The Basic Child Support Obligation from the Schedule is \$425 for two children. After making all applicable adjustments under Section § 9, the Total Child Support Obligation is \$500 and the noncustodial parent's proportionate share is 60%, or \$300. The noncustodial parent has ~~visitation~~ PARENTING TIME with the children a total of 100 days. On the ~~Visitation~~ PARENTING TIME Table A, the range of days for this amount of ~~visitation~~ PARENTING TIME is from 88 to 115 days. The corresponding adjustment percentage is .161. Multiply the \$425 Basic Child Support Obligation by .161 OR 16.1%. The resulting \$68 is subtracted from \$300 (the noncustodial parent's proportionate share of the Total Child Support Obligation), adjusting the child support obligation to \$232.

As the number of ~~visitation~~ PARENTING TIME days approaches equal time sharing (143 days and above), certain costs usually incurred only in the custodial household are assumed to be substantially or equally shared by both parents. These costs are for items such as the child's clothing and personal care items, entertainment and reading materials. If this assumption is rebutted by proof, for example, that such costs are not substantially or equally shared in each household, only ~~visitation~~ PARENTING TIME Table B must be used to calculate the ~~visitation~~ PARENTING TIME adjustment for this range of days. Locate the total number of ~~visitation~~ PARENTING TIME days per year in the left columns of the "~~Visitation~~ PARENTING TIME Table B" and select the adjustment

percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 7 8 by the appropriate adjustment percentage. The number resulting from this multiplication then is subtracted from the proportionate share of the Total Child Support Obligation of the parent who exercises ~~visitation~~ PARENTING TIME.

VISITATION PARENTING TIME TABLE B	
Number of Visitation PARENTING TIME Days	Adjustment Percentage
143 – 152	.275
153 – 162	.293
163 – 172	.312
173 – 182	.331

12. EQUAL CUSTODY

If the time spent with each parent is essentially equal, the expenses for the children are equally shared and adjusted gross incomes of the parents also are essentially equal, no child support shall be paid. If the parents' incomes are not equal, the total child support amount shall be divided equally between the two households and the parent owing the greater amount shall be ordered to pay what is necessary to achieve that equal share in the other parent's household.

EXAMPLE: After making all applicable adjustments under Sections ~~8 and 11~~ 9 and 13, the remaining child support obligation is \$1500. The parents' proportionate shares of the obligation are \$1000 and \$500. To equalize the child support available in both households, deduct the lower amount from the higher amount ($\$1000 - \$500 = \$500$), then divide the balance in half ($\$500 \div 2 = \250). The resulting amount, \$250, is paid to the parent with the lower obligation.

~~11~~13. Adjustments For Other Costs

If a parent pays a cost under Section ~~8-a. through b.1-D.~~ 9.A. OR 9.B. (EXCEPT 9.B.4), deduct the cost from that parent's Proportionate Share OF INCOME to arrive at the Preliminary Child Support Amount.

EXAMPLE: A NONCUSTODIAL PARENT PAYS FOR MEDICAL INSURANCE THROUGH HIS OR HER EMPLOYER. THESE COSTS ARE ADDED TO THE BASIC CHILD SUPPORT OBLIGATION PURSUANT TO SECTION 9.A, THEN PRORATED BETWEEN THE PARENTS TO ARRIVE AT EACH PARENT'S PROPORTIONATE CHILD SUPPORT OBLIGATION. BECAUSE THE COST HAS

ALREADY BEEN PAID TO A THIRD PARTY (THE INSURANCE COMPANY), THE COST MUST BE DEDUCTED FROM THE NONCUSTODIAL PARENT'S CHILD SUPPORT OBLIGATION BECAUSE THIS PORTION OF THE CHILD SUPPORT OBLIGATION HAS ALREADY BEEN PAID.

1214. Determining the Child Support Order

The court shall order the noncustodial parent to pay child support in an amount equal to his or her proportionate share of the Total Child Support Obligation. The custodial parent shall be presumed to spend his or her share DIRECTLY on the children.

EXAMPLE: On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Gross Income of \$1,500 for one child is ~~\$294~~ 329. To this the court adds ~~\$20~~ 33 because the child is over 12 years of age (~~approximately 7~~ 10% in this example). The Total Child Support Obligation is ~~\$314~~ 362.

The father's share is 60% of ~~\$314~~ 362, or ~~\$187~~ 217. The mother's share is 40% of ~~\$314~~ 362, or ~~\$124~~ 145. Custody is granted to the mother and under the court-approved parenting plan, ~~visitation~~ PARENTING TIME will be exercised by the father a total of 100 days per year RESULTING IN AN ADJUSTMENT OF \$53 ($329 \times 16.1\%$). After adjusting for ~~visitation~~ PARENTING TIME, the father's share is ~~\$139.75~~ 164 ($217 - 53$). The father shall pay the child support amount of ~~\$139.75~~ 164 per month. The value of the mother's contribution is ~~\$124~~ 145, and she spends it directly on the child.

1315. Self Support Reserve Test

In each case, after determining the child support order, the court shall perform a Self Support Reserve Test to verify that the noncustodial parent is financially able both to pay the child support order and to maintain at least a minimum standard of living, as follows:

Deduct ~~\$710~~ 775 (the Self Support Reserve AMOUNT) from the noncustodial parent's Adjusted Gross Income, except that the court may deduct from such parent's Adjusted Gross Income for purposes of the Self Support Reserve Test only, court-ordered arrears on child support for children of other relationships or spousal maintenance, if actually paid. If the resulting amount is less than the child support order, the court may reduce the current child support order to the resulting amount after first considering the financial impact the reduction would have on the custodial PARENT'S household. The test applies only to the current child support obligation, but does not prohibit an additional amount to be ordered to reduce an obligor's arrears.

EXAMPLE: Before applying the Self Support Reserve Test, the child support order is calculated under the guidelines to be \$175. The adjusted gross income of the noncustodial parent is \$850. Subtracting the self-support reserve AMOUNT of ~~\$710~~ 775 FROM THE NONCUSTODIAL PARENT'S ADJUSTED GROSS INCOME OF \$850 leaves ~~\$140~~ 75. Because this resulting amount is less than the \$175 child support order, the court may reduce the child support order to the resulting amount. However, before making any

reduction, the court shall examine the self-support capability of the non-paying parent, using the same Self Support Reserve Test applied to the noncustodial parent.

In this example, the non-paying parent's proportionate share of the total child support obligation calculated under the guidelines to be \$200. This parent'S ADJUSTED GROSS INCOME IS ~~earns minimum wage of~~ \$892 ~~per month~~. Subtracting the self support reserve of ~~\$710~~ 775 FROM THE NON-PAYING PARENT'S ADJUSTED GROSS INCOME OF \$892 leaves ~~\$182~~ 117. Because this resulting amount is less than the parent's proportionate share of the Total Child Support Obligation, it is evident that both parents have insufficient income to be self supporting. In this situation, the court has discretion to determine whether and in what amount the child support order (the amount the noncustodial parent is ordered to pay) may be reduced.

14 16. Multiple Children, Divided Custody

When each parent is granted physical custody of at least one of the parties' children, each parent is obligated to contribute to the support of all the children. However, the amount of current child support to be paid by the parent having the greater child support obligation shall be reduced by the amount of child support owed to that parent by the other parent.

EXAMPLE: (For simplicity, this example does not consider ~~visitation~~ PARENTING TIME.) Combined Adjusted Gross Income is \$3,000 per month. Father's gross income is \$1,000 per month (33.3%) and he has custody of one child. Mother's gross income is \$2,000 per month (66.6%) and she has custody of two children.

Prepare a Parent's Worksheet to determine child support for children in the mother's household. Locate the Combined Adjusted Gross Income figure of \$3,000 on the Schedule. Select the child support figure in the column for the two children in this household, ~~\$787~~ 817. The father's share is 33.3% of ~~\$787~~ 817 or ~~\$262.07~~ 272.

Prepare a Parent's Worksheet to determine child support for the child in the father's household. Locate the Combined Adjusted Gross Income figure of \$3,000. Select the child support figure in the column for the one child in this household, ~~\$543~~ 589. The mother's share is 66.6% of ~~\$543~~ 589, or ~~\$361.64~~ 392.

The mother is obligated to pay the father ~~\$361.64~~ 392 for child support. This amount is reduced by the ~~\$262.07~~ 272 obligation owed by the father to the mother. Thus, the mother shall pay ~~\$99.57~~ 120 per month.

15 17. Child Support Assigned to the State

If child support has been assigned to the state under Arizona Revised Statutes Section 46-407, the obligation of a parent to pay child support shall not be offset by child support arrearages that may be owed to that parent.

16 18. Travel Expenses Associated with Visitation PARENTING TIME

The court may allocate travel expenses of the child associated with ~~visitation~~ PARENTING TIME IN CASES WHERE ONE-WAY TRAVEL EXCEEDS 100 MILES. In doing so, the court shall consider the means of the parents and may consider how their conduct (such as a change of residence) has affected the costs of ~~visitation~~ PARENTING TIME. To the extent possible, any allocation shall ensure that the child has continued contact with each parent. A parent who is entitled to receive reimbursement from the other parent for allocated ~~visitation~~ PARENTING TIME expenses shall, upon request of the other parent, provide receipts or other evidence of payments actually made. The allocation of expenses does not change the amount of the child support ordered.

17 19. Gifts in Lieu of Money

Once child support has been ordered by the court, the child support is to be paid in money. Gifts of clothing, etc. in lieu of money are not to be offset against the child support order except by court order.

18 20. Deviations

- A. The court shall deviate from the guidelines, i.e., order child support in an amount different from that which is provided pursuant to these guidelines, after considering all relevant factors, including those set forth in Arizona Revised Statutes Section 25-320, and applicable case law, only if all of the following criteria are met:
1. Application of the guidelines is inappropriate or unjust in the particular case,
 2. The court has considered the best interests of the child in determining the amount of a deviation. A deviation that reduces the amount of child support paid is not, by itself, contrary to the best interests of the child,
 3. The court makes written findings regarding 1 and 2 above IN THE CHILD SUPPORT ORDER, MINUTE ENTRY OR CHILD SUPPORT WORKSHEET,
 4. The court shows what the order would have been without the deviation, and
 5. The court shows what the order is after deviating.

- B. The court may deviate from the guidelines based upon an agreement of the parties only if all of the following criteria are met:
1. The agreement is in writing OR STATED ON THE RECORD PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE, RULE 80(D),
 2. All parties have ~~signed~~ ENTERED INTO the agreement with knowledge of the amount of child support that would have been ordered ~~by~~ UNDER the guidelines but for the agreement,
 3. All parties have ~~signed~~ ENTERED INTO the agreement free of duress and coercion, and
 4. The court complies with the requirements of Section ~~18.a.~~ 20.A.

19 21. Third-Party Care Givers

When a child lives with a third-party caregiver by virtue of a court order, administrative placement by a state agency or under color of authority, the third-party caregiver is entitled to receive child support payments from each parent on behalf of the child.

20 22. Court's Findings

The court shall make findings in the record as to: Gross Income, Adjusted Gross Income, Basic Child Support Obligation, Total Child Support Obligation, each parent's proportionate share of the child support obligation, and the child support order.

The findings may be made by incorporating a worksheet containing this information into the file.

If the court attributes income above minimum wage income, the court shall explain the reason for its decision.

The child support order shall be set forth in a sum certain and start on a date certain. A new child support order shall be filed upon any change in the amount or due date of the child support obligation.

24 23. Exchange of Information

The court shall order that every twenty-four months, financial information such as tax returns, financial affidavits, and earning statements be exchanged between the parties.

Unless the court has ordered otherwise, at the time the parties exchange financial information, they shall also exchange residential addresses and the names and addresses of their employers.

22 24. Modification

A. Standard Procedure

Pursuant to Arizona Revised Statutes Sections 25-327 and 25-503, either parent or the state Title IV-D agency may ask the court to modify a child support order upon a showing of a substantial and continuing change of circumstances.

B. Simplified Procedure

Either parent or the state Title IV-D agency may request the court to modify a child support order if application of the guidelines results in an order that varies fifteen percent or more from the existing amount. A fifteen percent variation in the amount of the order will be considered ~~prima facie~~ evidence of substantial and continuing change of circumstances. A request for modification of the child support amount must be accompanied by a completed and sworn "Parent's Worksheet for Child Support Amount," and documentation supporting the incomes if different from the court's most recent findings regarding income of the parents. If the party requesting the modification is unable to provide documentation supporting the other party's income, the requesting party shall indicate that the income amount is attributed/estimated and state the basis for the amount listed. The state Title IV-D agency may submit a parent's worksheet.

The simplified procedure also may be used by either parent or the state Title IV-D agency to modify a child support order to assign or alter the responsibility to provide medical insurance for a child who is subject of a child support order. A modification of the medical assignment or responsibility does not need to vary by fifteen percent or more from the existing amount to use the simplified procedure.

A copy of the request for modification of child support and the "Parent's Worksheet for Child Support Amount," including supporting documentation, showing that the proposed child support amount would vary fifteen percent or more from the existing child support order shall be served on the other parent, or on both parents if filed by the state Title IV-D agency, pursuant to Rules 4.1 and 4.2, Rules of Civil Procedure.

If the requested modification is disputed, the parent receiving service must request a hearing within 20 days of service. If service is made outside the state, as provided in Rule 4.2, Rules of Civil Procedure, the parent receiving service must request a hearing within 30 days of service.

A party requesting a hearing shall file a written request for hearing accompanied by a completed and sworn "Parent's Worksheet for Child Support Amount." Copies of the documents filed, together with the notice of hearing, shall be served on the other party and, if appropriate, the state Title IV-D agency by first class mail not less than ten judicial days prior to the hearing.

Upon proof of service and if no hearing is requested within the time allowed, the court will review the request and enter an appropriate order or set the matter for hearing.

If any party requests a hearing within the time allowed, the court shall conduct such hearing. No order shall be modified without a hearing if one is requested.

The notice provision of Rule 55, Rules of Civil Procedure, does not apply to this simplified modification procedure.

A request to modify child support, request for a hearing and notice of hearing, "Parent's Worksheet for Child Support Amount" and child support order filed or served pursuant to this subsection must be made using forms approved by the Arizona Supreme Court or substantially similar forms.

Approved forms are available from the Clerk of the Superior Court.

23 25. Effect of Cessation of Child Support for One Child

If child support for more than one child was ordered under these guidelines and thereafter the duty to support one of the children stops, the order is not automatically reduced by that child's share. To obtain a modification to the child support order, a request must be made in writing to the court to recalculate the child support obligation pursuant to these guidelines. The procedure specified in Section ~~22~~ 24 may be used for this purpose.

EXAMPLE: The child support order for an COMBINED ADJUSTED GROSS income of \$1,500, with four children is ~~\$562~~ 600. One child graduates from high school and turns 18. In determining the new child support amount, do not deduct one-fourth of the order for a new order of ~~\$421.50~~ 450. Instead, determine a new child support order by applying the guidelines. (NOTE: This method varies from the one used in Section ~~8.b.2~~ 9.B.4).

2426. Income of a Child AND BENEFITS RECEIVED BY OR ON BEHALF OF CHILD

25

- A. Income earned or money received by a child from ANY sources other than COURT-ORDERED child support shall not ~~relieve a parent of the support obligation established by these guidelines.~~ BE COUNTED TOWARD EITHER PARENT'S CHILD SUPPORT OBLIGATION EXCEPT AS STATED HEREIN. However, income earned or money received by or on behalf of a person for whom child support is ordered to ~~be continued~~ past the age of majority pursuant to Arizona Revised Statute SECTIONS 25-320.B and 25-809.F may be credited against any child support obligation.
- B. Benefits, such as Social Security Disability or Insurance, received by a ~~child~~ CUSTODIAL PARENT ON BEHALF OF A CHILD, as a result of contributions made by the parent paying child support shall be credited as follows:

1. ~~Only the benefits received by the parent are included as part of that parent's gross income.~~
 2. If the amount of the child's benefit for a given month is equal to or greater than the PAYING parent's child support obligation, then ~~the~~ THAT parent's obligation is satisfied. ~~Any benefit received by the child for a given month in excess of the child support obligation is not treated as an arrearage payment nor as a future payment.~~
 2. ANY BENEFIT RECEIVED BY THE CHILD FOR A GIVEN MONTH IN EXCESS OF THE CHILD SUPPORT OBLIGATION SHALL NOT BE TREATED AS AN ARREARAGE PAYMENT NOR AS A CREDIT TOWARD FUTURE CHILD SUPPORT PAYMENTS.
 3. If the amount of the child's benefit for a given month is less than the parent's child support obligation, the parent ~~must~~ SHALL pay the difference UNLESS THE COURT, IN ITS DISCRETION, MODIFIES THE CHILD SUPPORT ORDER TO EQUAL THE BENEFITS BEING RECEIVED AT THAT TIME.
- C. EXCEPT AS OTHERWISE PROVIDED IN SECTION 5.B, ANY BENEFITS RECEIVED DIRECTLY, AND NOT ON BEHALF OF A CHILD, BY EITHER THE CUSTODIAL PARENT OR THE PARENT PAYING CHILD SUPPORT AS A RESULT OF HIS OR HER OWN CONTRIBUTIONS, SHALL BE INCLUDED AS PART OF THAT PARENT'S GROSS INCOME.

26 27. Federal Tax Exemption for Dependent Children

In any case in which the current child support obligation is at least \$1,200 per year, there should be an allocation of the federal tax exemptions applicable to the minor children which as closely as possible approximates the percentages of child support being provided by each of the parents. If it is determined that a party who is otherwise entitled to the dependency exemption based upon the above percentages will not derive a tax benefit from claiming the dependency exemption, the exemption should be allocated to the other party. The allocation of the exemptions shall be conditioned upon payment by December 31 of the total court-ordered MONTHLY child support obligation for the current calendar year and any court-ordered arrearage payments due during that calendar year for which the exemption is to be claimed. If these conditions have been met, the custodial parent shall execute the necessary Internal Revenue Service forms to transfer the exemptions. If the noncustodial parent has paid the current child support, but has not paid the court-ordered arrearage payments, the noncustodial parent shall not be entitled to claim the exemption.

EXAMPLE: Noncustodial parent's percentage of gross income is approximately 67% and custodial parent's percentage is approximately 33%. All payments are current.

If there are three children, the noncustodial parent would be entitled to claim two and the custodial parent would claim one.

If there is only one child, the noncustodial parent would be entitled to claim the child two out of every three years, and the custodial parent would claim the child one out of every three years.

For purposes of this section only, a noncustodial parent shall be credited as having paid child support that has been deducted on or before December 31 pursuant to an order of assignment if the amount has been received by the court or clearinghouse by January 15 of the following year.

28. CHILD SUPPORT ARREARS

- A. WHEN SETTING AN AMOUNT FOR A PAYMENT ON ARREARS, THE COURT SHOULD TAKE INTO CONSIDERATION THAT INTEREST ACCRUES ON THE PRINCIPAL BALANCE. IF THE COURT SETS A PAYMENT ON ARREARS LESS THAN THE AMOUNT OF THE ACCRUING MONTHLY INTEREST, THE COURT SHALL MAKE A FINDING WHY THE AMOUNT IS LESS THAN THE ACCRUING MONTHLY INTEREST. UPON A SHOWING OF SUBSTANTIAL AND CONTINUING CHANGED CIRCUMSTANCES, THE COURT MAY ADJUST THE AMOUNT OF PAYMENT ON ARREARS.
- B. WHEN A CURRENT CHILD SUPPORT OBLIGATION TERMINATES, BEFORE ADJUSTING THE ORDER OF ASSIGNMENT TO AN AMOUNT LESS THAN THE CURRENT CHILD SUPPORT AMOUNT AND THE PAYMENT ON ARREARS, THE COURT SHALL CONSIDER THE TOTAL AMOUNT OF ARREARS AND THE ACCRUING INTEREST, AND THE TIME THAT IT WILL TAKE THE OBLIGOR TO PAY THESE AMOUNTS.

27 29. Effective Date AND GROUNDS FOR MODIFICATION

~~All child support orders in actions filed after April 30, 2001, shall be made pursuant to these guidelines, whether they be original orders or modifications of pre-existing orders.~~

- A. EXCEPT FOR DEFAULTS OR AS OTHERWISE AGREED UPON BY THE PARTIES, ALL CHILD SUPPORT ORDERS ENTERED AFTER DECEMBER 31, 2004, SHALL BE MADE PURSUANT TO THESE GUIDELINES, WHETHER THEY BE ORIGINAL ORDERS OR MODIFICATIONS OF PRE-EXISTING ORDERS, UNLESS THE COURT DETERMINES OTHERWISE BASED ON GOOD CAUSE SHOWN. IN CASES OF DEFAULT, THE GUIDELINES IN EFFECT AT THE TIME OF FILING THE ACTION WILL BE USED. THE PARTIES MAY AGREE TO USE EITHER THE GUIDELINES IN EFFECT AT THE TIME OF FILING THE ACTION OR THOSE IN EFFECT AT THE TIME THE ORDER IS ENTERED.

- B. A SUBSTANTIAL VARIANCE BETWEEN AN EXISTING CHILD SUPPORT ORDER AND AN AMOUNT RESULTING FROM APPLICATION OF THE NEW GUIDELINES MAY BE CONSIDERED EVIDENCE OF A SUBSTANTIAL AND CONTINUING CHANGE OF CIRCUMSTANCES FOR PURPOSES OF A MODIFICATION. A VARIANCE OF AT LEAST 15% WOULD BE EVIDENCE OF A SUBSTANTIAL AND CONTINUING CHANGE OF CIRCUMSTANCES.